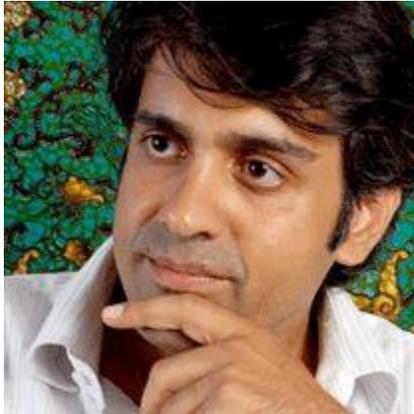


Voices from the Rwanda Tribunal

Official Transcript: Avi Singh (Part 7 of 7)



Role:	Legal Assistant
Country of Origin:	India
Interview Date:	24 October 2008
Location:	Arusha, Tanzania
Interviewers:	Batya Friedman John McKay
Videographer:	Max Andrews
Interpreter:	None

Interview Summary

Avi Singh speaks about his experiences defending Jerome Bicomumpaka, posing the question: Are all government members responsible if genocide occurs in their country? In other remarks, he critiques the legal aid structure at the ICTR, claiming the United Nations is plagued by inefficiency. He stresses the importance of high quality defense to avoid political prosecutions, and discusses the problem of hearsay in witness testimonies. Singh comments that alleged perpetrators of genocide typically view themselves as victims of an international conspiracy.

The transcript of Part 7 begins on the following page.

Part 7

- 00:01 **John McKay: So I want to take you – just give, give you an opportunity to, to talk a little bit more. We’ve talked about your view of prosecutors. We haven’t talked about you know, the daily grind of being in a case . . .**
- 00:12 Mm-hmm.
- 00:13 **JM: . . . discovery disputes, about documents that should be disclosed to the defense. E-, exculpatory evidence, I just . . .**
- 00:19 I was warned about this, yeah . . . yeah . . . yeah.
- 00:21 **JM: Well no, I, I give them, I give them to you just as an opportunity to comment because, because we would all hope that there would be improved and better systems in the – we never want another, we never want another tribunal, but, but if there is one, you know, ar-, do you have impressions that you would want to, to, to tell us now that might be accessible to researchers in the future?**
- 00:42 Yeah, I mean, okay, so ideal case, and let’s not even talk about whether the case is good or not, but ideal management of the case. It’s a well pleaded indictment, which actually tells you what evidence is going to be brought. Not one which is written before any of the witnesses are interviewed. There’s timely disclosure of that evidence on which the indictment was based – this is stuff that’s basic right? But none of this has happened.
- 01:12 I mean this is stuff you would think is 101, none of this has happened. There would be timely disclosure of the witnesses on which the indictment was based. Those witnesses would then be brought. There would be, actually be a coherence to the prosecution case where you won’t have their own witnesses contradicting each other.
- 01:27 So they would think about that before they wrote the indictment. They would disclose that, they would continue to disclose if a-, if any new material came up, rather than bringing the same witness to another case and not telling the defense in the bizarre hope that they won’t find out, despite the specific rule in numerable jurisprudence that says you have a continuous duty to disclose all exculpatory materials.
- 01:51 They would you know, put that case, then we would put our case, and they would cross examine without trying to bring in new material to expand their case and we’d be finished and hopefully there’d be a reasonable judgment and I’d be happy whether – you know, I’d be much happier if I won . . .

- 02:09 . . . but, you know, that would actually be something so you don't end up fighting ridiculous battles which you don't even know how to, you know, you know, how do you say for example a motion filed this week? Prosecution closing brief is over, we find out that a very important witness came in another case.
- 02:30 Here's a witness, which another witness which was recalled who said he had lied on behalf of the prosecution, said that, "This chap lied, actually we conspired together to lie." The prosecution then opposed a wide investigation into this conspiracy to perjure, basically as I call it, saying that, "No, no, no, only one witness has lied, the one who has come back so we should limit the investigation."
- 02:57 While they were in possession of this material. Now the grind is you know, it may . . . now we have to fight for something right? So it creates a lot of paperwork, and it's not battles which are, you know, you're right, it's just paperwork, you've just got to go through the whole process, you know.
- 03:15 **JM: Is, is there anything else that, you know, now that you, you have an opportunity to, to, to speak your mind on . . .**
- 03:21 Yeah.
- 03:21 **JM: . . . on what's happened here, either in your own experience or how you might, you might say to someone who would sit in the same chair as you in a, in another, in another tribunal.**
- 03:29 Yeah.
- 03:31 **JM: What should they prepare for? What, what should be the mindset that they would have in going about their work and trying to represent their client fairly and zealously?**
- 03:39 I mean, to really, there's a – Peter, who you'll interview I think perhaps, Peter Robinson, and I call his approach the, you know, "Burn every bridge while you retreat." I don't know whether that's necessarily the best approach but sometimes you have to. Because the – don't assume that the other side is going to play, play it straight. You know, you just got to really be wary of every single thing, and don't, don't assume that even though the rules say something is going to happen, it's going to happen.
- 04:11 So, so everything has to be sort of fought on, every single thing. Which is, is not just, you know, entering court, looking at the witness statements and cross examining them and having regular – you've got to sort of really look at, not that you should look for conspiracies, but you have evidence of conspiracies hatched in prisons to, you know, with the connivance of Rwandan authorities . . .

- 04:34 . . . to actually bring false evidence. And you know, that's the level of – there was an interview sometime, I think it was Peter again, which basically said that nobody is telling the truth, neither the prosecution witnesses nor the defense witnesses.
- 04:48 Which is very cynical, but to some extent you have to be wary of the fact that a lot of the evidence we've had after a long time, I'm talking about oral evidence, is very, very problematic. So how do you build truth in that perspective?
- 05:03 JM: (_____), that's what we, that's what we all seek, isn't it?**
- 05:06 Yeah.
- 05:07 JM: But let me just, just ask you as a, as a final question – you're a young guy, you, you've been here . . .**
- 05:13 Not so (__) young.
- 05:14 JM: You . . . you're a young guy; you, you worked in, you worked as a business development person in the corporate world in the U.S., yeah?**
- 05:19 Yeah, Germany, U.S.
- 05:22 JM: Yeah that's great. But you came here really right after law school.**
- 05:25 Yeah . . . yeah . . . yeah, yeah, yeah.
- 05:26 JM: You really did, because you did your internship and you came here and this is your work as a lawyer, you, you know, when . . .**
- 05:30 I had a, another case while I was doing this too so I was on two cases, this, the, the Sierra Leone one.
- 05:36 JM: Yes right, but your, your world from having been in the corporate world has become an international . . .**
- 05:42 Mm-hmm . . . Yeah, yeah.
- 05:42 JM: . . . you're an international lawyer, international criminal defense lawyer, this is an amazing thing. And your career may change. Ho-, how . . . it probably will, who knows, we all do, right?**
- 05:51 JM: But, but if you look back on this time here . . .**
- 05:53 Yeah.

- 05:54** JM: . . . and let's say you went back to the corporate world and you were in-house counsel for, you know, Volkswagen and you really, really liked it, but every once in a while as you sat at your desk, your pen tapped and your mind went back to Arusha. What will you think about and, and what does it mean in your life, personally and as a lawyer?
- 06:14 You know, this is the hard question. I mean to be honest, I mean Arusha is, you know, they're very good, good memories, in terms of work and otherwise, you know. It is, it is something – and again you know, as you said, people looking at this are going to be like, you know, “How can you say this?” You know, “It's a tragedy of, of immense magnitude,” but, you know, this is, this is really what, what one wants to work on, i-, is fighting that.
- 06:44 Now, so that's sort of the positive. You know, the negative, the amount of time done, time spent sorry, on this, the . . . I just want to make sure . . . I would really have liked the prosecutor and other people – I'm not saying I'm that competent – but to be competent, so they could raise my game too.
- 07:07 You know, because that would have made it I think, would have made me less cynical, would have made the process less cynical, because then you know, alright, yes it is, it is something which is interesting. It is something which is of, of a magnitude that requires respect and respect comes from competence, people doing their jobs properly. But you know, it's very hard to maintain that.
- 07:34 When there's just things let, being let go all the time. So, you know, tha-, tha-, that's the sort of, you know – I always feel, you know, in the back of my mind that we've, you know, you're going to get associated with, with saying something which was, in the end people going to say, “Yeah, but the quality of jurisprudence at that tribunal. You know, this was just terrible,” or something like that. You know that's, that's because one has spent five years, one seventh of my life here . . .
- 08:03** JM: Thank you very much. No, it was, well I . . .
- 08:05 I hope it was helpful. Thank you.